

# San José Human Services Commission

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Kimberly Carvallison (District 7) | M. Saeed Chaudhary (District 8)  
Tayesa Knight (District 9) | Thomas Estrada (District 10)*

Dear Honorable Councilmember,

As we wrote you earlier this spring, we are thrilled that our city is taking a major step towards gender equality with the Women's Bill of Rights<sup>1</sup>. Your support of the Women's Bill of Rights provided a vital tool for building a future where the women, girls and non-binary people in your district achieve the full protection and enforcement of their human rights. Thank you.

In our role as the commission named in the Ordinance as overseeing the implementation of the Women's Bill of Rights, members of our commission [have researched](#) how other cities have successfully implemented their local CEDAW ordinances. We have found that, though passed with the best intentions, our ordinance defines gender in such a way that it could be used to exclude transgender and non-binary members of our community; it also does not take into account the way that gender, race, ethnicity, and disability interact. Council's version was based on a version of this ordinance that was first developed over a decade ago, before most policymakers were aware of the needs of the transgender and non-binary communities. We know better now -- and we can do better.

Members of our commission went in search of a solution. We reviewed 38 other cities' ordinances and found that both Pittsburgh, PA and the Mayor of Los Angeles' offices included language which would solve this issue. We have redrafted the Women's Bill of Rights (enclosed) to include that language and strongly urge you to pass it, so that the gender analysis we are tasked with overseeing may fully reflect the diversity and needs of our wonderful city.

Here is a comparison between the current version of the ordinance and our proposed substitutions:

Current Bill	Our Substitutions
Includes no mention of transgender people	Explicitly includes transgender people
Includes no mention of non-binary people	Explicitly includes non-binary people
Defines gender: "'Gender' shall mean the way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities and needs, rather than their biological differences."	Defines gender: "'Gender' shall mean the way society produces, positions, and policies women and men as 'opposite,' mutually exclusive, natural categories of persons, and organizes ideas, interactions, and roles on the basis of presumed differences that establish hierarchies between women, men and non-binary people and erases the experiences of non-binary people."
Does not allow data to be disaggregated by the disability or ability status of those included in the required independent gender analysis survey	Explicitly includes people with disabilities whose experiences of gender and discrimination may diverge from other people's.
Allows data to be disaggregated by race	Allows data to be disaggregated by race; explicitly states that discrimination against women includes discrimination against women based on their race; includes a specific definition of racial discrimination for use in collecting data.

We have sought and received community input on our language change proposals, including non-binary, transgender and genderqueer people; past and current BAYMEC board-members; labor lawyers; and

<sup>1</sup> Passed as an Ordinance by City Council amending Chapter 2.08 of Title 2 of the San Jose Municipal Code to add a new Part 49 for the local implementation of the women's bill of rights (12/19/2017).

other members of the LGBTQ community. Below is a comment in support of our efforts that we received from San José resident Jesslynn Rose Hoppe-Keiser (23) who is a volunteer at the LGBTQ Youth Space in downtown San José:

"To include language that is expressly gender-neutral, be it for systems of bureaucracy or otherwise, is essential in recognizing and respecting the presence and inherent value of Queer, Trans and Gender Expansive People; to include language that is outside the gender binary, with pronouns such as they, them, hir and zhe, will encourage those in positions of legislative and communal influence to recognize and commit themselves to new and positive involvement with a community that has long been left behind. As such, this inclusion will increase the possibilities for people's who are Trans/Non-Binary to have a space to assert the unique needs of their communities, most of which includes overarching narratives of impoverishment, violence, abuse, houslessness and unemployment."

### **Why include non-binary and transgender people?**

We would hope this would be self-evident, but we want to make our position clear: non-binary and transgender people are valuable members of our community and deserve to have their human rights respected by our city government. Ensuring the city programs, policies, and departments are investing equitably in our community is vital to our vision of what it means to be Americans, Californians, and San José residents.

Here are the facts: A 2017 UCLA study found that 27%, or [796,000, of California's youth, ages 12 to 17](#), report they are viewed by others as gender nonconforming at school. This means the share of our community that identifies outside of the gender binary is only going to grow. We must ensure our city's laws fully include all our young people, however they identify.

Thank you for your time and consideration. Members of the Human Services Commission will be following-up with your office next week to review any questions you might have about this recommendation.

Respectfully and in-service,

Chair,  
The San José Human Services Commission

## DRAFT Op-Ed for the Mercury News

**Headline:** Include Transwomen and Non-Binary People in the Women's Bill of Rights

**Wordcount:** 595 (needs to be at or under 600)

We are thrilled that our city is taking a major step toward gender equality by with the Women's Bill of Rights, passed by San José's City Council on December 19th, 2017. The Women's Bill of Rights could be a vital tool in building a future where women, girls and non-binary people in our city achieve the full protection and enforcement of their human rights.

In our role as the commission named in the Ordinance as overseeing the implementation of the Women's Bill of Rights, members of our commission [have researched](#) how other cities have successfully implemented their local CEDAW ordinances. We have found that, though passed with the best intentions, our ordinance defines gender in such a way that it could be used to exclude transgender and non-binary members of our community; it also does not take into account the way that gender, race, ethnicity, and disability interact.

Here are the facts: A 2017 UCLA study found that 27%, or [796,000, of California's youth, ages 12 to 17](#), report they are viewed by others as gender nonconforming at school. This means the share of our community that identifies outside of the gender binary is only going to grow. We must ensure our city's laws fully include all of our young people, however they identify.

Members of our commission went in search of a solution. We reviewed 38 other cities' ordinances and found that both Pittsburgh, PA and the Mayor of Los Angeles' offices included language which would solve this issue. We have redrafted the Women's Bill of Rights to include that language submitted it to council.

Here is a comparison between the current version of the ordinance and our proposed substitutions:

Current Bill	Our Substitutions
Includes no mention of transgender people	Explicitly includes transgender people
Includes no mention of non-binary people	Explicitly includes non-binary people
Defines gender: "'Gender' shall mean the way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities and needs, rather than their biological differences."	Defines gender: "'Gender' shall mean the way society produces, positions, and policies women and men as 'opposite,' mutually exclusive, natural categories of persons, and organizes ideas, interactions, and roles on the basis of presumed differences that establish hierarchies between women, men and non-binary people and erases the experiences of non-binary people.
Does not allow data to be disaggregated by the disability or ability status of those included in the required independent gender analysis survey	Explicitly includes people with disabilities whose experiences of gender and discrimination may diverge from other people's.
Allows data to be disaggregated by race	Allows data to be disaggregated by race; explicitly states that discrimination against women includes discrimination against women based on their race; includes a specific definition of racial discrimination for use in collecting data.

We have sought and received community input on our language change proposals, including non-binary, transgender and genderqueer people; past and current BAYMEC board-members; labor lawyers; and other members of the LGBTQ community. Below is a comment in support of our efforts that we received from San José resident Jesslynn Rose Hoppe-Keiser (23) who is a volunteer at the LGBTQ Youth Space in downtown San José:

"To include language that is expressly gender-neutral, be it for systems of bureaucracy or otherwise, is essential in recognizing and respecting the presence and inherent value of Queer, Trans and Gender Expansive People; to include language that is outside the gender binary, with pronouns such as they, them, hir and zhe, will encourage those in positions of legislative and

communal influence to recognize and commit themselves to new and positive involvement with a community that has long been left behind. As such, this inclusion will increase the possibilities for people's who are Trans/Non-Binary to have a space to assert the unique needs of their communities, most of which includes overarching narratives of impoverishment, violence, abuse, houslessness and unemployment."

**Why include non-binary and transgender people?**

We would hope this would be self-evident, but we want to make our position clear: non-binary and transgender people are valuable members of our community and deserve to have their human rights respected by our city government. Ensuring the city programs, policies, and departments are investing equitably in our community is vital to our vision of what it means to be Americans, Californians, and San José residents. And, as mentioned above, the share of our community that identifies outside of the gender binary is increasing.

We strongly urge city council to pass the amended version of this ordinance and ensure all members of our community are included in the upcoming gender analysis survey.

Chair,  
San José Human Services Commission

**DRAFT Letter to the Editor of the Mercury News from the Human Services Commission**

**Headline:** Include Transwomen and Non-Binary People in the Women's Bill of Rights

**Wordcount:** 143 (needs to be at or under 150 words)

A 2017 UCLA study found that 27%, or [796,000, of California's youth, ages 12 to 17](#), report they are viewed by others as gender nonconforming at school. This means the share of our community that identifies outside of the gender binary is only going to grow. We must ensure our city's laws fully include all of our young people.

In August, the Human Services Commission sent city council substitute language to the Women's Bill of Rights to make it fully inclusive of the LGBTQ community. To develop the language, we worked former board members of BAYMEC, volunteers at the LGBTQ YouthSpace, non-binary people, labor lawyers, and other members of the LGBTQ community to make our ordinance the most inclusive in the United States.

Please join us in asking city council to ensure all of our neighbors are included in this important ordinance.

Signed: Chair, The San José Human Services Commission